

Diesel Fuel Pump Report
Planning & Zoning Committee
June 19, 2012

Introduction

On February 14, 2012, The Memphis City Council approved a six month moratorium (see Appendix A) on the issuance of building permits while a committee was formed to study the installation of diesel fuel pumps and to determine any detrimental effects on the close proximity of said pumps on the health and well-being of residents. The Division of Planning and Development and the Shelby County Health Department were agencies directed to provide guidance and expertise in studying this subject.

Purpose

The purpose of the report is to provide credible information to the legislative body as it considers changes to the Unified Development Code (UDC) as it relates to the installation of diesel fuel pumps, particularly, those possibly situated near residential areas and any harmful effects that are caused by their placement near residents. The UDC, the zoning code and subdivision regulations for all properties within Memphis and unincorporated Shelby County, was approved by the legislative bodies in August, 2010 and became effective January 1, 2011. It was contemplated that changes to the UDC would be necessary and after more than one year as a working document. Consequently, a number of amendments are necessary to enhance the Code. Moreover, a review of the UDC when the issue of diesel fuel pumps arose, revealed a relevant section that was included in the previous zoning code but unintentionally omitted from the current document (see Appendix B). A Zoning Text Amendment approved in 2001 allows tractor trailer, sales, fueling and service only in Industrial areas.

Background

Neighborhood leaders fearing the installation of diesel fuel pumps, contacted their elected Memphis City Council representative to question the ability of a business to incorporate a new, and possibly detrimental use into their neighborhood without feedback and agreement to that use. A community meeting was held on January 24, 2012 with more than 250 concerned and business representatives in attendance. There was overwhelming agreement that this expanded use to allow diesel pumps at 2038 Shelby Drive would cause The Memphis City Council is obligated to ensure that its zoning ordinances and other laws support the health and well-being of its residents and has a responsibility to take due diligence with matters of extreme concern to its public. As a result, the study was undertaken to determine what changes, if any, are necessary to address this matter.

Evaluation

The Committee met and agreed to look at several specific items to determine if diesel fuel pumps pose a potential health hazard and therefore necessitate a distance restriction from residential areas. Members were tasked with gathering specific information including: 1) evaluating any research conducted on health and environmental concerns relative to diesel fuel and diesel fuel stations; 2) determining any ill-effects, including criminal effects, from the presence of fuel pumping stations currently in existence with the Memphis community.

Findings

There is clear evidence to suggest that an amendment to the UDC is not without merit to ensure that business rights and those of the general public are protected as permits are gained for the installation of diesel fuel pumps within our community. In balancing both interests, it is suggested that reasonable distance limitations be considered to address a company's right to conduct a legitimate business against residents who have made a significant investment in their neighborhoods. The findings are supported by the information contained herein.

WHAT IS DIESEL FUEL AND THE POTENTIAL HEALTH EFFECTS ASSOCIATED WITH IT?

Although diesel fuel is used extensively by the trucking industry, there are reasons why many truck stops are located away from residential areas. Diesel exhaust contains over 400 microscopic particles, vapors, and toxic organic materials that are released into the air when diesel fuel is combusted by trucks and other diesel vehicles¹. Many dangerous pollutants are emitted when diesel fuel is burned including arsenic, benzene, formaldehyde, inorganic lead, acetaldehyde, methanol, phenol, carbon monoxide, nitrogen oxides, sulfur dioxide, and compounds of mercury, manganese, and cyanide. (1)

Many of these microscopic particles are less than one-fifth the thickness of a human hair and can become lodged deep within the lungs, with the smallest particles able to pass through the lungs into the blood stream. (2) In a study conducted by the California Environmental Protection Agency's Office of Environmental Health Hazard Assessment (OEHHA), long-term exposure to diesel exhaust particles posed the greatest cancer risk of any toxic air contaminant evaluated by that agency. (2)

The OEHHA stated that exposure to diesel exhaust can have immediate health effects including irritation to the eyes, nose, throat, and lungs causing coughing, headaches, dizziness, and nausea.⁽²⁾ The United States Environmental Protection Agency (USEPA) further states that diesel exhaust is a major source of fine particulate matter which has been linked to increased emergency room visits for people with lung and heart conditions such as asthma, emphysema, heart disease, and other ailments. (3) Children are at risk due to developing lungs as well as the tendency for more outdoor exposure. The elderly are also susceptible and can be affected much more rapidly by fine particulate matter such as diesel emissions. The concentrations of diesel exhaust can increase quickly at refueling stations due to truck idling while waiting in line, and can be compounded further on days when weather conditions create stagnant air.

(1) http://www.losh.ucla.edu/losh/resources-publications/fact-sheets/diesel_english.pdf

(2) http://oehha.ca.gov/public_info/facts/pdf/diesel4-02.pdf

(3) http://www.epa.gov/region1/eco/diesel/health_effects.html

WHAT HAS BEEN THE IMPACT OF EXISTING DIESEL FUEL STATIONS IN MEMPHIS?

In addition to the health concerns central to the issue of diesel fuel emissions in proximity to residential areas, is also the fear that this expanded or new use within a neighborhood would contribute to an increase in unsavory and criminal activity. As part of its review, the committee evaluated the activities of two existing diesel fuel stations to determine the types of incidents reported during a specified period of time. Properties reviewed are located at 4949 Lamar and 5021 Lamar. Statistical information (see Appendix B) for the period of 2010, 2011 and through April 2012 is included.

The information included in Appendix B lists the incidents reported at each location. Reports of vandalism, theft, simple assault and prostitution are among the crimes committed and detailed. In the case of the 4949 Lamar location, 16 reports were taken from January to April of this year and more than 75 for the preceding year. At the 5021 Lamar facility, 30% of the reports taken for the previous year had already been registered for the first four months of this year. It is important to note that these two examples are located within heavily industrialized areas so there is no information to compare the collateral effect of these types of criminal incidents would have on a residential area within a close proximity to this type of use.

Year	# of Incidents	Location
2010	0	2038 E Shelby Drive
	59	4949 Lamar
	12	5021 Lamar
2011	10	2038 E Shelby Drive
	77	4949 Lamar
	13	5021 Lamar
2012 (Jan - April)	10	2038 E Shelby Drive
	16	4949 Lamar
	4	5021 Lamar

Conclusion

On a national, state, and local stage, it is widely known that the sale and consumption of diesel fuel in the United States drives economic development. The United States economy heavily relies on diesel tractor trailer trucks to move goods, diesel farm equipment to produce food, and diesel buses to move people from place to place. Diesel engines are more durable, more efficient, and more powerful

than gasoline engines. Yet, diesel fuel consumption also produces a variety of drawbacks that negatively impact the environment, the economy, and the health of everyone.

First, diesel fuel consumption produces a disparate impact on the environment in which we all must live. The most obvious concern is that diesel fuel is a derivative of petroleum, which is a finite, non-renewable energy source. Efforts to retrieve petroleum are costly and produce swaths of detrimental side effects on the environment. A prime example is BP's mishaps in the Gulf of Mexico in 2010.

Another obvious environmental impact of diesel fuel is the amount of pollution that is produced when it is consumed. The Environmental Protection Agency ("EPA") has addressed this issue numerous times and has generated a positive impact in the reduction of diesel fuel pollution through recent action. For example, in 2007, the EPA passed regulation that decreased the amount of pollution highway and non-highway diesel fuel vehicles may emit.¹ Prior to 2007, highway diesel fuel vehicles could operate on low-sulfur diesel ("LSD") fuel and emit a maximum of 500 parts per million ("ppm") of sulfur content.² As of 2010, almost all highway diesel fuel vehicles now operate on ultra-low sulfur diesel ("ULSD") fuel that contains 15 ppm of sulfur content. This effectively reduces sulfur emissions by approximately 97% in vehicles produced after 2006.³ Much of this progress is accomplished at the refinery stage, although new diesel fuel filtration and catalytic technology have also played a part.⁴

Despite these accomplishments, the steps the EPA has taken are only serving as "Band-Aids" at the current time. Research estimates that it will take twenty years for older model diesel vehicles to be phased out because diesel vehicles manufactured before 2007 lack the technology to fully take advantage of the reduced emissions effects created by ULSD fuel.⁵

The pollution that diesel fuel generates is a key driver in climate change throughout the world. Because it is currently impossible for a combustion engine to be 100% efficient in its combustion of fuel, diesel engines emit unburned fuel, gases, and particulate matter into the air in the form of exhaust. When this happens, a plethora of gases is emitted, including nitrogen oxide, carbon monoxide, and carbon dioxide, as well as a plethora of particulate matter including sulphur dioxide, arsenic, formaldehyde, acetaldehyde, polycyclic aromatic hydrocarbons, and other fine and ultra-fine particles

¹ ENVIRONMENTAL PROTECTION AGENCY, <http://www.epa.gov/otaq/fuels/dieselfuels/index.htm>.

² *Id.*

³ ENVIRONMENTAL PROTECTION AGENCY, <http://www.epa.gov/otaq/highway-diesel/>.

⁴ *Id.*

⁵ Bruce Holder et. al, *Effect of Biodiesel on Diesel Engine Nitrogen Oxide and Other Regulated Emissions*, NAVAL FACILITIES ENGINEERING COMMAND, at *3, <http://www.dtic.mil/cgi-bin/GetTRDoc?AD=ADA483907>; see also Conrad G. Schneider et al., *Diesel and Health in America: The Lingering Threat*, CLEAN AIR TASK FORCE, at *2, http://www.catf.us/resources/publications/files/Diesel_Health_in_America.pdf.

commonly referred to as “soot.”⁶ The gas particles that are emitted are of most concern to the environment; the particulate matter emitted is of most concern to our health.

Of the gases emitted in diesel exhaust, nitrogen oxide generates the most cause for concern to our environment. According to a recent study conducted by the National Oceanic and Atmospheric Administration in 2009, nitrogen oxide, which is actually nitrous oxide at ground level, ascends into the atmosphere to form into nitrogen oxide, which is now considered the top ozone depleting gas emission.⁷ In addition to being the top ozone depleting substance emitted because of human activity, nitrogen oxide is also considered a greenhouse gas.⁸ What makes these findings particularly important is that nitrogen oxide is one of the most prevalent gases emitted in diesel exhaust.⁹ When its effects are combined with the other gases and particulate matter emitted, a combination of ozone depleting, greenhouse gas retaining, smog producing substances are created all at once, which combine to contribute to the world’s climate change problems.

When narrowed down from a world-wide problem to a local problem, the effects of diesel fuel combustion are more readily observable in larger cities than in small towns. This observation is particularly relevant in a city the size of Memphis, with approximately 646,000 residents and millions of visitors on an annual basis.¹⁰ When diesel fuel pump stations are spread out across a city as large as Memphis, the aforementioned residual effects of diesel fuel consumption multiply.

If the number of diesel fuel pump stations across Memphis increases, then air quality will decrease as a result. Diesel powered vehicles and equipment will begin to permanently occupy new parts of the city due to increased access to diesel fuel supply at gas stations that either did not exist previously or did not offer diesel fuel in the past. This observation is *particularly true* if the diesel fuel pump station is a large outfit with a target audience of diesel operated vehicles, such as Pilot Travel Centers, Love’s Travel Stops, Travel Centers of America, and the like. Large sections of I-40 and I-240 within the City of Memphis are adjacent to residential neighborhoods; allowing large outfits like those aforementioned to have travel centers located just off these sections of interstate would subject the neighborhoods in close proximity to increased environmental hazards like smog and acid rain. In short, when you multiply the number of diesel powered vehicles in an area, you multiply the harmful effects those vehicles emit. Memphis would see those effects on a large scale.

⁶ *Diesel Exhaust: What You Need to Know*, UCLA LABOR OCCUPATIONAL SAFETY AND HEALTH PROGRAM, http://www.losh.ucla.edu/losh/resources-publications/fact-sheets/diesel_english.pdf; see also *Diesel Particulate Matter*, ENVIRONMENTAL PROTECTION AGENCY, <http://www.epa.gov/region1/eco/airtox/diesel.html>.

⁷ A.R. Ravishankara et al., *NOAA Study Shows Nitrous Oxide Now Top Ozone-Depleting Emission*, NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION, http://www.noaanews.noaa.gov/stories2009/20090827_ozone.html.

⁸ *Id.*

⁹ *Emission Control Technologies for Diesel Powered Vehicles*, MANUFACTURERS OF EMISSION CONTROLS ASSOCIATION, <http://www.meca.org/galleries/default-file/MECA%20Diesel%20White%20Paper%2012-07-07%20final.pdf>.

¹⁰ *State and County Quick Facts*, U.S. CENSUS BUREAU, <http://quickfacts.census.gov/qfd/states/47/4748000.html>.

In addition to environmental effects, diesel fuel consumption also creates numerous short-term and long-term health hazards.¹¹ Humans are exposed to more than forty hazardous toxins in diesel exhaust particulate matter by simply breathing.¹² The toxins diesel powered vehicles and equipment emit stay suspended in air predominately close to ground-level.¹³ The fine and ultra-fine particles emitted in diesel fuel exhaust are particularly troublesome for humans because the particles are respirable, which means that “they can avoid many of the human respiratory defense system mechanisms and enter deeply into the lungs.”¹⁴

Once diesel fuel particulate matter is inhaled, short-term health risks are experienced immediately. These risks include, but are not limited to, irritation of the eyes, nose, throat, and lungs, pneumonia, lightheadedness, nausea, dizziness, headache, heartburn, lung inflammation, drowsiness, and fatigue.¹⁵ In addition, people with asthma, heart disease, and emphysema may suffer exacerbated symptoms when exposed to diesel fuel particulate matter.

While the short-term risks are serious and deserve attention, the long-term risks associated with diesel fuel particulate matter are much worse. Prolonged exposure to diesel fuel emissions has been proven to lead to chronic bronchitis, ischemic heart disease, cardiovascular disease, heart attack, stroke, impairment of immune, reproductive, and nervous systems, and cancer.¹⁶ In a study released on June 5, 2012, the International Agency for Research on Cancer (“IARC”) and World Health Organization (“WHO”) released a report confirming that diesel exhaust is a group 1 carcinogen, which now puts diesel exhaust fumes in the same category as other noxious substances including asbestos, arsenic, mustard gas, alcohol, and tobacco.¹⁷ The IARC’s decision was unanimous in concluding that diesel exhaust causes lung cancer in humans and also noted a positive association to the increased risk of bladder cancer.¹⁸ IARC’s experts released this report while acknowledging the emergence of recent

¹¹ *Diesel Exhaust: What You Need to Know*, UCLA LABOR OCCUPATIONAL SAFETY AND HEALTH PROGRAM, http://www.losh.ucla.edu/losh/resources-publications/fact-sheets/diesel_english.pdf.

¹² *Health Effects of Diesel Exhaust*, CAL. EPA’S OFFICE OF ENVIRONMENTAL HEALTH HAZARD ASSESSMENT, http://oehha.ca.gov/public_info/facts/pdf/diesel4-02.pdf.

¹³ Conrad G. Schneider et al., *Diesel and Health in America: The Lingering Threat*, CLEAN AIR TASK FORCE, at *1, http://www.catf.us/resources/publications/files/Diesel_Health_in_America.pdf.

¹⁴ *Diesel Particulate Matter*, ENVIRONMENTAL PROTECTION AGENCY, <http://www.epa.gov/region1/eco/airtox/diesel.html>.

¹⁵ *Diesel Exhaust: What You Need to Know*, UCLA LABOR OCCUPATIONAL SAFETY AND HEALTH PROGRAM, http://www.losh.ucla.edu/losh/resources-publications/fact-sheets/diesel_english.pdf; see also *Health Effects of Diesel Exhaust*, CAL. EPA’S OFFICE OF ENVIRONMENTAL HEALTH HAZARD ASSESSMENT, http://oehha.ca.gov/public_info/facts/pdf/diesel4-02.pdf.

¹⁶ Lesley Rushton, *The Problem With Diesel*, JOURNAL OF THE NATIONAL CANCER INSTITUTE, <http://inci.oxfordjournals.org/content/104/11/796.full>.

¹⁷ *Diesel Engine Exhaust Carcinogenic*, INTERNATIONAL AGENCY FOR RESEARCH ON CANCER, <http://www.iarc.fr/en/media-centre/iarcnews/2012/mono105-info.php>; see also Kate Kelland, *Diesel Exhaust Fume Cause Lung Cancer, WHO Says*, REUTERS, <http://www.reuters.com/article/2012/06/12/us-cancer-diesel-who-idUSBRE85B0ZN20120612>.

¹⁸ *Id.*

technologies that limit diesel exhaust emissions. Despite new technology, IARC's experts' conclusions about the correlation between diesel exhaust and cancer remained the same because a large number of diesel vehicles still on the road today have not been upgraded with the latest emission-reducing technology.¹⁹

Recent research indicates that as many as 60,000 people in the United States die prematurely each year because of exposure to fine and ultra-fine particles from all sources.²⁰ Two different studies estimate 15,000 and 21,000 annual deaths, respectively, from exposure to mobile diesel emitting sources.²¹ Serious health problems like those aforementioned, including premature death, occur most often in high-density urban areas with a high concentration of diesel vehicles and traffic, as well as in mines, enclosed maintenance garages, and the actual operators of the diesel operated vehicles and equipment.²²

Of those at risk, children and seniors are most susceptible to the adverse effects of diesel fuel emissions. Children are typically more active than adults and breathe more rapidly as a result.²³ When compared with adults, children have "higher lung volume to body size, higher respiration rates, and spend more active time in the polluted outdoor environment."²⁴ Seniors are also at high-risk because their immune and respiratory systems are often not strong enough to combat the effects of diesel fuel particulate matter when inhaled; seniors will notice changes in heart rhythm and control mechanisms are the first sign of exposure.²⁵

From an economic perspective, implementation of diesel operated vehicles and equipment has saved massive amounts of money in operation costs. Diesel operated vehicles are more powerful, last longer, and get on average 30-35% better gas mileage than gasoline powered vehicles.²⁶ Yet, despite the benefits and improved emission technology, the aforementioned evidence shows that diesel operated vehicles (and equipment) still have a disparate impact on the environment and health of our citizens. From an environmental perspective, oil spills, air pollution, and ozone depletion are all side

¹⁹ *Id.*

²⁰ Conrad G. Schneider et al., *Diesel and Health in America: The Lingering Threat*, CLEAN AIR TASK FORCE, at *4, http://www.catf.us/resources/publications/files/Diesel_Health_in_America.pdf.

²¹ *Id.* at *5; see also *Public Health and Environmental Impacts of Diesel Emissions*, WEST COAST COLLABORATE PUBLIC-PRIVATE PARTNERSHIP TO REDUCE DIESEL EMISSIONS, <http://westcoastcollaborative.org/files/outreach/Health-Enviro-Factsheet.pdf>.

²² *Id.* at *13.

²³ *Id.* at *11.

²⁴ *Id.*

²⁵ *Id.*

²⁶ *Diesel Vehicles*, U.S. DEP'T OF ENERGY, http://www.fueleconomy.gov/feg/di_diesels.shtml.

effects that have an incalculable price tag. From a health perspective, it is estimated that Americans spent \$139 billion in 2010 in health damages related to diesel fuel particulate matter.²⁷

On a local level, implementation of diesel fuel pump stations around the City of Memphis would generate both economic benefits and costs. Should diesel fuel pump stations be implemented across the City, the City would enjoy increased tax revenue from the purchase of diesel fuel from operators who have not purchased fuel here in the past due to the lack of availability. On the other hand, most diesel operated vehicles are heavy and can weigh upwards of 80,000 pounds. Over time, these vehicles would damage the City's roads while traveling to and from the newly available diesel fuel pump stations. It would remain to be seen whether the increased tax revenue would cover the cost of repairing the roads on a more frequent basis.

In conclusion, diesel fuel consumption provides a plethora of benefits. Durability, power, and efficiency are all benefits that come to mind. New emissions technology has reduced the amount of emissions that diesel powered vehicles and equipment generate. Nevertheless, the downsides to current diesel fuel emissions outweigh the benefits. Many of the diesel operated vehicles on the road today do not meet safe emissions criteria. Because these vehicles typically last at least 20 years and can travel approximately one million miles, even a conservative estimate would intimate the changes implemented in 2007 by the EPA will not be fully realized until at least 2020. As a result, the environment in which we live, the health we all enjoy, and the economic prosperity we strive to achieve would suffer if diesel fuel pump stations were to expand significantly within the City of Memphis.

²⁷ Conrad G. Schneider et al., *Diesel and Health in America: The Lingering Threat*, CLEAN AIR TASK FORCE, at *3, http://www.catf.us/resources/publications/files/Diesel_Health_in_America.pdf.

Appendix A

CITY COUNCIL RESOLUTION

WHEREAS, recently certain businesses have filed Building Permits for the installation of diesel fuel pumps in order to provide fueling options for tractor-trailers within 100 feet of a residential neighborhood; and

WHEREAS, the citizens of Memphis have fundamental rights to the greatest protection of their welfare and safety, and the democratic process should allow them to maintain the highest quality of life possible; and

WHEREAS, in the interests of the citizens of Memphis a Moratorium on building permits regarding the installation of diesel fuel pumps to accommodate tractor-trailers within 500 feet of a residential neighborhood is deemed to be in the best interest of the public welfare to allow completion of a study to determine any detrimental effects on the close proximity of diesel fuel pumps on the health and well-being of residents and changes to the Unified Development Code.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Memphis that the City hereby establishes a Moratorium on the issuance of Building Permits for the installation of diesel fuel pumps within 500 feet of a residential neighborhood by the Division of Planning & Development, until September 1, 2012, applicable to all pending applications and all permits applied for from and after the date of this resolution.

BE IT FURTHER RESOLVED that the Council desires to establish an ad hoc committee to work with the Division of Planning & Development and Shelby County Health Department in setting the parameters for the study and crafting any amendments to the Unified Development Code.

HAROLD COLLINS
Memphis City Council

Appendix B

ZTA 01-001CC

ITEM # 23

PREPARED BY: Terry Emerick

COMMISSIONER: WELLFORD

APPROVED BY: Robert B. Rely

JOINT ORDINANCE 253

A JOINT ORDINANCE (ZTA 01-001 CC) AMENDING THE MEMPHIS AND SHELBY COUNTY ZONING ORDINANCE-REGULATIONS ADOPTED BY THE SHELBY COUNTY BOARD OF COMMISSIONERS ON OCTOBER 6, 1980, AND BY THE COUNCIL OF THE CITY OF MEMPHIS ON OCTOBER 7, 1980, BEING RESOLUTION AND ZONING ORDINANCE NO. #3064, AS AMENDED, SO AS TO MAKE CERTAIN CHANGES THEREIN AS FOLLOWS:

Amend the Zoning Ordinance Text as follows:

1. Amend Section 29, Sign, affecting signs permitted in the commercial Districts (C-H, C-L, C-P)
2. Amend Section 32, Landscape and Screening regulations, to modify required planting screens and street scape landscaping.
3. Amend Section 27, Accessory Structure and Uses, to require screening of rooftop accessory equipment.
4. Amend Chart 1 to require a special use permit for outdoor storage in the Highway Commercial (C-H) Zoning District.
5. Amend Chart II, Bulk Regulations to modify certain building setbacks in Commercial Zoning Districts adjacent to residential zoning and use.
6. Amend Section 2 Definitions to exclude tractor-trailer trucks from the terms Automotive and Motor Vehicle Sales and Service.

WHEREAS, Certain proposed changes in the above captioned Joint Ordinance and Resolution have been proposed by the Memphis and Shelby County Office of Planning and Development designated as ZTA 01-001 CC, a copy of which is attached hereto and specifically incorporated herein by reference, and

WHEREAS, The Memphis and Shelby County Land Use Control Board held a public hearing on February 8, 2001 as required by law on the proposed changes and has recommended its approval of same.

ZFA 01-001CC

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY
COMMISSIONERS OF SHELBY COUNTY, TENNESSEE AND BY THE COUNCIL OF
THE CITY OF MEMPHIS

SECTION 1.

THAT THE JOINT ORDINANCE set out in the caption hereof be
and the same is hereby amended by the attached sheets as set
forth herein.

SECTION 2.

BE IT FURTHER ORDAINED, That the attached amendments to said
Zoning Ordinance-Regulations are hereby specifically incorporated
herein by reference as if set out in its entirety.

SECTION 3.

BE IT FURTHER ORDAINED, That the Joint Ordinance take effect
from and after the date it shall have been enacted according to
due process of law, and thereafter shall be treated as in full
force and effect in the jurisdiction subject to the above
mentioned Ordinance by virtue of the passage thereof by the Board
of Commissioners of Shelby County, Tennessee and the Council of
the City of Memphis.

Morris H. Hain
Chairman, County Commission

Jim Rout
County Mayor

DATE: 9-26-01

ATTEST:

Caroline Huggs
Clerk of the County Commission

First Reading: JULY 30, 2001

Second Reading: AUGUST 13, 2001

ADOPTED
Third Reading: SEPTEMBER 24, 2001

Case # ZTA 01-001 CC

2FA 01-001CC

THE AMENDMENTS ARE AS FOLLOWS:

Amend Section 29 "SIGNS" Subsection VII C. a; b, and c to read as follows:
(parentheses, bold, and *italics* denote deletion), Bold and underlined denotes new language)

a. Districts: C-P, C-L, C-H, P, H, R-MH and CU:

- (1) Attached: Not regulated
- (2) Detached:
 - (a) 35 square feet per sign within 15 foot setback
 - (b) Minor Road - 35 square feet per sign.
 - (c) Major Road - .5 square feet for every foot of frontage increased by .025 square feet for each foot of setback per foot of frontage (See Chart I).
 - (d) Interstate Freeway - .75 square feet for every foot of frontage increased by .025 square feet for each foot of setback per foot of frontage (See Chart II).

(Editor's Note: The sign closest to the right-of-way line shall establish the maximum detached sign area permitted on major and interstate freeways as determined by Chart I or Chart II respectively. Any sign located within the 15 foot setback shall not exceed 35 square feet in area.)

b. Districts: (C-H), CBD outside of CBID), I-L and I-H

- (1) Attached: Not regulated
- (2) Detached:
 - (a) 70 square feet per sign within 15 foot setback
 - (b) Minor Road - 70 square feet per sign
 - (c) Major Road - .75 square feet for every foot of frontage increased by .025 square feet for each foot of setback per foot of frontage (See Chart III).
 - (d) Interstate Freeway - 1.00 square feet for every foot of frontage increased by .025 square feet for each foot of setback per foot of frontage (See Chart IV).

(Editor's Note: The sign closest to the right-of-way line shall establish the maximum detached sign area permitted on major and interstate freeways as determined by Chart I or Chart II respectively. Any sign located within the 15 foot setback shall not exceed 70 square feet in area.)

c. In addition to the above, the following additional maximum gross surface area requirements shall apply to all districts:

- (1) Maximum for any one detached sign shall be 400 square feet.
- (2) The signage surface area rights for a detached sign on a minor road may be transferred to a major or interstate freeway detached sign irrespective of the sign area requirements permitted by Charts I through IV. If all or a portion of the detached signage rights for a detached sign on a minor road is transferred, no detached sign shall be permitted on the minor road. (No transfer of signage area shall be made to a minor road.)

(Parentheses, bold, and *italic* print denote a deletion), underline and bold denote an addition.

- (3) Signs permitted by Subsections A and B above may extend within the 15 foot setback, provided that the sign area extending into the setback does not exceed the maximum square footage permitted within the setback and the maximum gross surface area for said sign shall be regulated by Charts I, II, III and IV, based upon the proposed setback of said sign or the location of the sign closest to the public right-of-way.

- (4) Frontage that is counted to permit any detached sign, including an integrated center sign, shall not be counted to permit any other detached or integrated center sign.

Amend Section 29 SIGNS: Subsection E 4. a. to revise the Chart, from Chart V to Chart I, that is used to determine the appropriate signage area of an integrated sign as follows:

Maximum Gross Surface Area:

- a. .075 square feet for every foot of frontage, increased by .025 square feet for each foot of setback per foot of frontage (See Chart (V) I).

Amend Section 27 Subsection D by adding a new number 7 as follows:

6. On corner lots, in addition to principle structures, no accessory structures or use of more than three (3) feet in height, shall be established or maintained within the area of the vision triangle; and no planting or other obstacle which obstructs sight lines at a height between two (2) and six (6) feet above the curb height shall be established or maintained within the area of the vision triangle.

(Joint Ordinance - Resolution No. 3706)

7. When a commercial use or zoning district abuts an existing or proposed residential use or residential zoning district, accessory uses such as dumpsters, and/or HVAC equipment shall be screened from the view of the public streets and the abutting residential use or zoning district. The method of screening, when the above mentioned accessory use is located on the ground, shall include sight-proof fencing and/or landscaping subject to the review of the building official. If the HVAC equipment is to be roof-mounted, then an architectural feature such as a parapet shall be required to screen the HVAC equipment from the residential use or district.

21A 01-001 CC

Amend Chart II by adding Footnote 8 to the Required Minimum Rear Yard Setback. Revise the footnote to include language that increases the minimum side and rear yard setbacks of commercial uses in the C-L, C-P, and C-H Districts when such uses abut or are adjacent to residential uses.
(Parentheses, bold, and *italic* print denotes deletion) underline and bold print denotes additions.

Chart 2:
Bulk Regulations and
Permitted Densities

District and Use	Minimum Lot Requirements		Minimum Yard Requirements		
	Area (Sq. Ft.)	Width (Feet)	Front (Feet)	Side (Feet)	Rear (Feet)
<u>C-P and C-L Districts</u>					
1. All uses except Offices	None	None	30 15	10 s	15 g
2. Offices	None	None	30 15	10 s	15 g
<u>C-H District</u>					
1. All uses except Office	None	None	30 15	10 s	15 g
2. Offices	None	None	30 15	10 s	15 g

Add the following new language to footnote: 8.

FN 8 The minimum side yard requirement shall apply only if the property abuts or is adjacent to property zoned or used for residential purposes or the residential portion of an approved planned development. Otherwise, no side yard is required When the side and/or rear yard of a commercial use abuts or is adjacent to a residential use as described above, the side and/or rear yard setbacks shall be increased by 1 (one) foot for every 1 (one) foot of corresponding rear or side building height or fraction thereof, greater than 15 feet

Amend Chart I by adding the following use under the heading **COMMERCIAL** and append this use to the end of this section of the chart, and indicate that the use is permitted by right in the Light Industrial and Heavy Industrial Districts:

(Parentheses, bold, and *italic* print denote deletions) underline and bold denotes additions.

chart 1: continued

USES

PERMITTED 8

ZONING DISTRICTS

	AG	C-H 8	CBD 8	I-L 8	I-H 8
Wholesale display		X	X	X	X
<u>Tractor - Trailer</u> (Sales, fueling, and service of)				<u>X</u>	<u>X</u>

ZPA 01-001CC

Amend Chart I to require a special use permit for the following use when it contains outdoor storage in the Local Commercial (C-L) and Highway Commercial (C-H) Zoning Districts.

USES

PERMITTED 8

ZONING DISTRICTS

	C-P 8	C-L 8	C-H 8
Use goods, second hand sales FN	P	X	X
Used goods, second hand sales (with outdoor sale, display and/or storage) FN	P	S	S

Add a footnote next to the use in Chart I and add the following language:

FN Used goods, and/or second hand sales are permitted by right in the Local Commercial or Highway Commercial Districts if all of its associated sales, display, and/or storage of merchandise is located within the principal or accessory building. Any outdoor sale, display, or storage of merchandise shall require a Special Use Permit.

Amend Section 32 Landscaping and Screening D. 4. to remove the B-2 and B-6 plates from the list of screening choices.
(Parentheses, bold, and *italic* print denote deletion) underline and bold print denotes additions

ZONING DISTRICTS OR USES

PLATES

a. Industrial (Principal Use or Zone)

Streetscape (Frontage)*

Without Parking in Front Yard
With Parking in Front Yard

A-1
A-2, A-3 or A-4

Screening (Adjacent to)

Office

B-1, (B-2), B-3, B-4, or
B-5 (or B-6)
B-1, (B-2), B-3, B-4,
or B-5 (or B-6)
(B-2), B-3, B-4, or
B-5 (or B-6)

Multi-family

S.F., R-D, R-TH (Zone or Uses)

b. Commercial (Principal Use or Zone)

Streetscape (Frontage)*

Without Parking in Front Yard
With Parking in Front Yard

A-1
A-2, A-3 or A-4

Screening (Adjacent to)

Office

B-1, (B-2), B-3, B-4,
or B-5 (or B-6)
B-1, (B-2), B-3, B-4,
or B-5 (or B-6)
(B-2), B-3, B-4,
B-5 (or B-6)

Multi-family

S.F., R-D, R-TH (Zone or Uses)

c. Office (Principal Use or Zone)

Streetscape (Frontage)*

Without Parking in Front Yard
With Parking in Front Yard

A-1
A-2, A-3 or A-4

Screening (Adjacent to)

Multi-family

B-1, (B-2), B-3,
B-4, or B-5 (or B-6)
B-1, (B-2), B-3,
B-4, or B-5 (or B-6)

S.F., R-D, R-TH (Zone or Uses)

d. Apartments (Principal Use or Zone)

Streetscape

Without Parking in the Front Yard
With Parking in Front Yard 1

A-1
A-2, A-3, or
A-4

Screening (Adjacent to)

Multi-family

B-1, (B-2), B-3, B-4,
B-5 (or B-6)

S.F., R-D, R-TH

B-1, (B-2), B-3, B-4,
B-5, (B-6)c. Single Family (R-S, R-D, R-TH
Zones and Uses)

Streetscapes

With Frontage on a Major Road

A-1

Non Residential Uses with Parking in
Front Yard

A-2, A-3, or A-4

Reverse Frontage Lots

RV-1, RV-2,
or RV-3

Screening (Adjacent to)

For Non Residential Uses in R-S, R-D, R-TH
Zones Adjacent to Residential Uses or
ZonesB-1, (B-2), B-3, B-4,
B-5, (B-6)

Amend Section II, Definitions to clarify the distinction between automobiles and delivery service trucks and large over the road transfer trucks
(Parentheses, bold and *italic* print denote deletion) underline and bold print denotes additions

MOTOR VEHICLE SALES: The display, sales, storage, servicing and repairing of new and used motor vehicles, but not including tractor-trailer motor vehicles.

MOTOR VEHICLE SERVICE: A building or portion thereof to be used for equipping, servicing and repair of motor driven vehicles, with or without the sale of motor fuels and oils, but not including tractor trailer motor vehicles.

Amend Section 32 Landscaping and Screening, list of approved trees, Tree B and Tree D, to delete the Bradford Pear from the list of approved trees under the heading Tree B, and to add a note of explanation that limits the use of Loblolly Pines in screens.

(Parentheses, bold, and *italic* print denote deletion) underline and bold print denotes additions

Trees B. Trees 30' to 50' Tall

<u>Common Name</u>	<u>Botanical Name</u>	<u>Growth Rate</u>	<u>Recommended Cultivars</u>
Turkish Filbert	Corylus Columna	Moderate	
Thornless Honey (N)	Gleditsia triacanthos inermis	Fast	"Skyline", "Shademaster", Greenglory, Moraine
Blackgum (N)	Nyssa sylvatica	Slow	
(Bradford pear	Pyrus calleryana 'Bradford'	Fast	"Chanticleer", Aristocrat")
Japanese Pagoda Tree	Sophora japonica	Fast	
Little Leaf Linden	Tilia cordata	Moderate	"Greenspire"
Silver Linden	Tilia tomentosa	Moderate	

Growth rate: slow-less than 1' per year; moderate 1' to 2' per year; fast more than 2' per year

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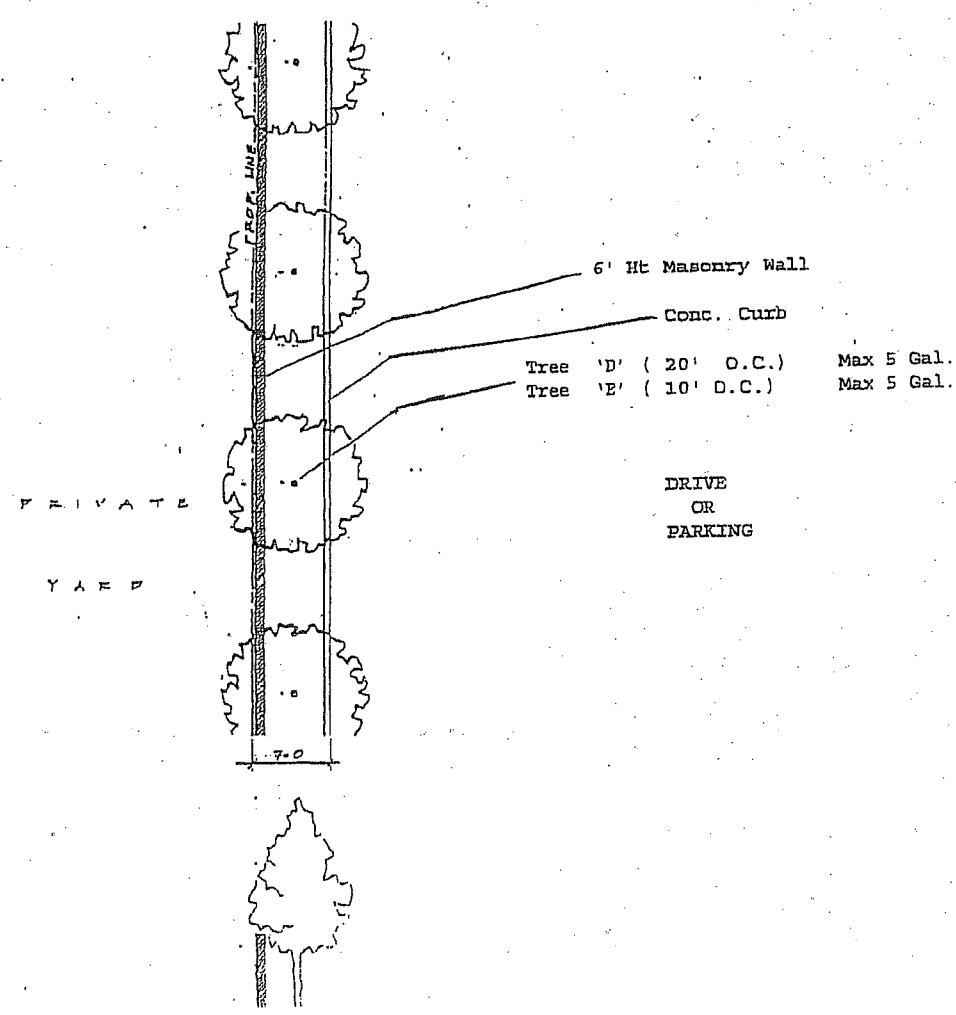
Tree D. Evergreen Trees over 30' Tall (Evergreen Trees for Screening)

(A variety of Evergreen Trees is Encouraged)

<u>Common Name</u>	<u>Botanical Name</u>	<u>Growth Rate</u>	<u>Effective Height</u>
Eastern Red Cedar *	Juniperus virginiana	Moderate	40' - 50'
Southern Magnolia (N)	Magnolia grandiflora	Slow	60' - 80'
Austrian Pine	Pinus nigra	Moderate	50' - 60'
Eastern White Pine (N)	Pinus strobus	Moderate	60' - 80'
Scotch Pine	Pinus sylvestris	Fast	60' - 90'
Loblolly Pine **	Pinus taeda	Fast	60' - 90'
Japanese Black Pine	Pinus thunbergii	Moderate	30' - 50'
Virginia (Scrub) Pine (N)	Pinus virginiana	Moderate	20' - 40'

** Loblolly Pines shall comprise no greater than 50 percent of the quantity of trees for required buffers and no greater than 50 percent of the quantity of trees required for the remainder of the site.

Amend Section 32, Landscaping and Screening to alter the spacing requirement for a Tree D in the B-1 Plate as follows:



Appendix C

4949 Lamar

Year	Report Type	Report #	Reported	Description	Location	Ward
2012	Records found: 16					
	Incident	1204007137ME	04/12/12 10:05	Other Theft/Non-Specific - Seaton, Robert	4949 Lamar Ave, Pilot	921
	Memo	1203015169ME	03/26/12 03:34	GAB - Found Firearm - Freeman, Jason	4949 Lamar Ave, Pilot	921
	Incident	1203014248ME	03/24/12 04:43	Vandalism/Misdemeanor - Hills Bros	4949 Lamar, Pilot Gas Station	921
	Incident	1203012146ME	03/21/12 03:59	Theft from Semi-trailer - Market Transport	4949 Lamar Ave, Pilot Truck Lot	921
	Incident	1203008347ME	03/14/12 20:41	Prostitution - State of Tennessee	4949 Lamar Ave, Pilot Truck stop	921
				On-View Arrest: Smith, Carolyn (FB, 09/08/63)		
	Incident	1203006209ME	03/11/12 10:32	Other Theft/Non-Specific - Higdon, Alisha	4949 Lamar Ave, The Pilot	921
	Incident	1203003738ME	03/06/12 14:33	Prostitution - State of Tennessee	4949 Lamar, Pilot Truck Stop	921
	Incident	1203002300ME	03/05/12 06:48	Robbery/Individual - Lymon, Garland	4949 Lamar	423
	Incident	1202017143ME	02/29/12 13:21	Theft & Recovery/Tractor Truck - Western star Transportation	4949 Lamar, Pilot Truck Stop	921
	Arrest (no report)	1202015461ME	02/27/12 01:10	Taken Into Custody: Scott, Eddie (MB, 08/19/81)	4949 Lamar, Pilot Gas Station	921
	Arrest (no report)	1202015459ME	02/27/12 01:04	Taken Into Custody: Whitfield, Claudell (MB, 03/09/53)	4949 Lamar	921
	Incident (cont. #1)	1202011080ME	02/20/12 07:13	Simple Assault - Freeman, Jason	4949 Lamar Ave, Pilot	921
	Incident	1202011080ME	02/20/12 00:14	Simple Assault - Freeman, Jason	4949 Lamar Ave, Pilot	921
				Taken Into Custody: Cody, Shannon (MB, 03/19/77)		
	Incident	1202010502ME	02/18/12 15:05	Theft from Motor Vehicle - Resto, Jacqueline	4949 Lamar Ave, Pilot truck stop	921
	Incident	1202002723ME	02/05/12 10:29	Theft from Motor Vehicle - Whitley, Darrell	4949 Lamar, Pilot Truckstop	921
	Incident	1201012453ME	01/21/12 23:50	Robbery/Business - Pilot Travel Center	4949 Lamar Ave, Pilot Travel Center	922

2011 Records found: 77

	Incident	1112014100ME	12/27/11 13:37	Vandalism/Misdemeanor - Oak Logistic	4949 Lamar, Pilot Station	921
	Memo	1112013901ME	12/27/11 06:10	Burglary Bureau - S.M. Transportation	4949 Lamar Ave, Pilot	921
	Incident	1112013247ME	12/25/11 02:18	Vandalism/Misdemeanor - Lampi, Steven	4949 Lamar, Pilot Gas Station	921
	Arrest (no report)	1111027448ME	11/27/11 15:10	On-View Arrest: Edwards, Artry (MB, 07/03/50)	4949 Lamar Ave, Pilot truck stop	921
	Incident	1111026815ME	11/25/11 20:17	Obscene/Harassing Phone Calls/DV - Virginia, Sheral	4949 Lamar, Pilot	921
	Incident	1111024860ME	11/21/11 22:56	Simple Assault - Freeman, Jason	4949 Lamar, Pilot	921
				Taken Into Custody: Walls, Joseph (MW, 07/26/63)		
	Incident	1111024419ME	11/21/11 11:25	Theft from Motor Vehicle - Studnicka, Jeffrey	4949 Lamar, Pilot	921
	Arrest (no report)	1111023664ME	11/19/11 17:57	On-View Arrest: Dixon, Reginald (MB, 02/22/74)	4949 Lamarave, Pilot Truck stop	921
	Incident	1111021256ME	11/15/11 18:31	Drugs/Narcotics Violation/Felony - State of Tennessee	4949 Lamar Ave, Pilot Truck stop	921
				On-View Arrest: Wallace, Donald (MB, 02/21/90)		
	Incident	1111007354ME	11/12/11 20:38	Theft from Semi-trailer - Knox, Issac	4949 Lamar, Pilot	921
	Incident (cont. #1)	1111005972ME	11/10/11 15:23	Embezzlement - O&A Trucking	4949 Lamar Ave, Pilot Truck Stop	921
				On-View Arrest: Galesic, Alija (MW, 10/21/76)		
	Incident	1111005972ME	11/10/11 14:06	Embezzlement - O&A Trucking	4949 Lamar Ave, Pilot Truck Stop	921
				On-View Arrest: Galesic, Alija (MW, 10/21/76)		
	Memo	1110041195ME	10/30/11 20:10	Burglary Bureau - Hidalgo, Octavio	4949 Lamar Ave, Pilot Truck Stop	922
	Arrest (no report)	1110052050ME	10/27/11 05:41	Taken Into Custody: Webb, Christophe (MB, 02/08/71)	4949 Lamar	921
	Incident	1110050858ME	10/26/11 10:31	Vandalism/Misdemeanor - JB Hunt	4949 Lamar, Pilot station	921
	Memo	1110050051ME	10/25/11 08:16	Economic Crimes Bureau - Rutledge, Ronald	4949 Lamar, Pilot station	921
	Incident	1110022120ME	10/24/11 08:32	Vandalism/Misdemeanor - Nats	4949 Lamar, Pilot	921
	Incident	1110011703ME	10/20/11 08:59	Vandalism/Misdemeanor - American Central Transport	4949 Lamar St, Pilot Truck Stop	921
	Memo	1110005748ME	10/10/11 09:10	General Assignment Bureau - Carbajal, Ramon	4949 Lamar, Pilot Truck Stop	921
	Incident	1110004864ME	10/08/11 11:58	Recovery/Foreign without Arrest - State of Tennessee	4949 Lamar Ave, Pilot Truck Stop	921
	Incident	1109012785ME	09/21/11 19:33	Theft from Motor Vehicle - Stevens, Kimberly	4949 Lamar Ave	922
	Arrest (no report)	1109007615ME	09/13/11 12:20	On-View Arrest: Coleman, Authur (MB, 06/14/48)	4949 Lamar St, Pilot Truck Stop	921
	Memo	1109006944ME	09/12/11 14:54	General Assignment Bureau - Anderson, Christopher	4949 Lamar, Pilot Truck Stop	921
	Incident	1109004930ME	09/09/11 03:10	Theft from Motor Vehicle - Smith, Howard	4949 Lamar, Pilot Truck Stop	921
	Incident	1109004310ME	09/08/11 08:49	Theft of Vehicle Parts/Accessories - Marten Transportation	4949 Lamar, Pilot station	921
	Incident	1109001823ME	09/03/11 22:39	Simple Assault - Escovedo, Linda	4949 Lamar	921
	Memo	1108018428ME	08/29/11 11:52	General Assignment Bureau - Walker, Derick	4949 Lamar, Pilot	921
	Memo (cont. #1)	1108013650ME	08/21/11 22:01	Auto/Cargo Task Force - Big M	4949 Lamar, Pilot Truck stop	921
	Memo	1108013650ME	08/21/11 19:40	Auto/Cargo Task Force - Big M	4949 Lamar, Pilot Truck stop	921
	Incident	1108007169ME	08/11/11 09:51	Other Theft/Non-Specific - Gilbert, Jerry	4949 Lamar, Pilot Travel Center	921
	Incident	1108003303ME	08/05/11 10:43	MVT/Tractor Truck - Marshall, Christophe	4949 Lamar, Pilot Truck Stop	921
	Incident	1107005312ME	07/08/11 08:23	Theft from Semi-trailer - Southern Carriers	4949 Lamar St, Pilot Truck Stop	921
	Incident	1106023054ME	06/30/11 07:54	Vandalism/Misdemeanor - Universal AM-Can	4949 Lamar, Pilot Store	921
	Memo	1106001937ME	06/03/11 10:45	Auto/Cargo Task Force - Cal Ark	4949 Lamar, Pilot	321
	Incident	1105023220ME	05/31/11 13:47	Pocket-Picking - Maxbille, Larry	4949 Lamar	921
	Incident	1105017079ME	05/23/11 15:11	Theft from Motor Vehicle - Brown, John	4949 Lamar Ave, Pilot Truck Stop	921
	Incident	1105007413ME	05/10/11 21:15	Theft from Motor Vehicle - Jordan, Teddy	4949 Lamar Ave, Pilot Truck Stop	921
	Memo	1105002807ME	05/04/11 18:42	Safe Streets Task Force - M.s. transportation	4949 Lamar, Pilot truck stop	922
	Incident	1104019280ME	04/27/11 16:16	Theft from Motor Vehicle - Hinds, Micheal	4949 Lamar, Pilot Truck stop	921
	Incident	1104018803ME	04/26/11 19:18	Vandalism/Misdemeanor - Thompson, Gary	4949 Lamar, Pilot Truck Stop	922
	Incident	1104015902ME	04/22/11 13:28	Theft from Motor Vehicle - Williams, Marian	4949 Lamar, Pilot Truck Stop	921
	Arrest (no report)	1104015939ME	04/22/11 13:08	Taken Into Custody: Coleman, Arther (MB, 06/14/48)	4949 Lamar, Pilot	921
	Memo	1104014550ME	04/20/11 16:58	General Assignment Bureau - Steele, Roger	4949 Lamar, Pilot Truck Stop	921
	Memo	1104006827ME	04/10/11 17:14	General Assignment Bureau - Sima, Marcel	4949 Lamar, Pilot truck stop	923
	Incident (cont. #1)	1103021684ME	03/30/11 03:13	Other Theft/Non-Specific - Miller, Cavel	4949 Lamar Ave, Pilot	921
	Incident	1103021684ME	03/30/11 02:10	Other Theft/Non-Specific - Miller, Cavel	4949 Lamar Ave, Pilot	921
	Memo	1103016074ME	03/22/11 17:17	Economic Crimes Bureau - Central Refridgerating	4949 Lamar/5021 Lamar, Pilot Gas Static	921
	Incident	1103012825ME	03/18/11 11:45	Theft from Motor Vehicle - Grabowski, Ili	4949 Lamar, Pilot Truckstop	921
	Incident	1103003904ME	03/07/11 06:28	Vandalism/Misdemeanor - JB Hunt	4949 Lamar, Pilot Gas Station	921
	Incident	1103003878ME	03/07/11 06:25	Vandalism/Misdemeanor - Shangri La Transport	4949 Lamar	921
	Incident	1103003870ME	03/07/11 05:43	Vandalism/Misdemeanor - PTL Trucking	4949 Lamar Ave, Pilot	921
	Arrest (no report)	1103003741ME	03/06/11 18:10	Taken Into Custody: Woodman, Rachelle (FB, 05/08/71)	4949 Lamar, Pilot Gas Station/Truck Stop	922
	Incident	1103002780ME	03/05/11 01:37	Simple Assault/DV - Barnes, Bakeisha	4949 Lamar Ave, Pilot Truck Stop	921
				Taken Into Custody: Dunlap, Alton (MB, 11/10/88)		
	Memo	1102007577ME	02/14/11 05:35	Auto/Cargo Task Force - Celadon Trucking Services Inc	4949 Lamar	921

Incident	1102006362ME	02/12/11 04:30	Theft from Semi-trailer - Swift	4949 Lamar Ave, Pilot	921
Memo	1102006256ME	02/11/11 21:52	General Assignment Bureau - Zapata, Pedro	4949 Lamar, Pilot Truck Stop	922
Arrest (no report)	1102005890ME	02/11/11 13:00	On-View Arrest: Coleman, Authur (MB, 06/14/48)	4949 Lamar, Pilot Truck Stop	921
Memo	1102005797ME	02/11/11 12:24	Safe Streets Task Force - Swift Transportation	4949 Lamar, Pilot Gas Station	921
Incident	1102005070ME	02/10/11 09:22	Vandalism/Misdemeanor - A and h	4949 Lamar, Pilot station	921
Incident	1102005067ME	02/10/11 08:59	Vandalism/Misdemeanor - First coast Inc	4949 Lamar, Pilot station	921
Incident	1102005069ME	02/10/11 08:42	Theft from Semi-trailer - Diageo Care Of Midwest houseWare	4949 Lamar Rd, Pilot Truck Stop	921
Incident	1102001127ME	02/03/11 09:00	Vandalism/Misdemeanor - Swift transportation	4949 Lamar, Pilot station	921
Incident	1102000927ME	02/02/11 18:36	Prostitution - State of Tennessee	4949 Lamar Ave, PILOT TRUCK STOP	921
			On-View Arrest: Atkins, Lakesha (FB, 10/10/88)		
Incident	1102000739ME	02/02/11 12:24	Simple Assault/DV - Stepter, Kernisha	4949 Lamar, Pilot	921
Memo	1102000360ME	02/01/11 17:48	General Assignment Bureau - Younger, Kimberly	4949 Lamar Ave, Pilot	922
Memo	1101021521ME	01/31/11 21:04	General Assignment Bureau - Tate	4949 Lamar, Pilot truck	922
Incident	1101021508ME	01/31/11 18:56	Vandalism/Misdemeanor - Phillips, Carlissa	4949 Lamar, Pilot truck stop	922
			On-View Arrest: Phillips, Rogreck (MB, 09/26/63)		
Incident	1101021454ME	01/31/11 17:47	Robbery/Individual - Goode, John	4949 Lamar, Pilot truck	922
Incident	1101018432ME	01/27/11 11:01	Other Theft/Non-Specific - Hawan, Adrain	4949 Lamar, Pilot Truck	921
Incident	1101007180ME	01/11/11 22:59	Shoplifting/Misdemeanor - Pilot	4949 Lamar, Pilot	921
Incident	1101007038ME	01/11/11 19:11	Theft from Motor Vehicle - Spring Valley	4949 Lamar Ave, Pilot	921
Incident	1101007045ME	01/11/11 19:01	Threatening Phone Call - Seals, David	4949 Lamar, Pilot	921
Incident	1101006678ME	01/11/11 09:48	Vandalism/Misdemeanor - marten	4949 Lamar, Pilot station	921
Incident	1101003253ME	01/05/11 22:41	Other Theft/Non-Specific - Delano, Steven	4949 Lamar, Pilot Truck Stop	922
Incident	1101002074ME	01/04/11 10:39	Theft from Motor Vehicle - Knutson, Debbie	4949 Lamar, Pilot Truck Stop	921
Incident	1101000911ME	01/02/11 17:26	Theft from Motor Vehicle - Doherty, Susan	4949 Lamar Ave, Pilot	921
Incident	1101000676ME	01/02/11 09:45	Theft from Semi-trailer - Rue 21	4949 Lamar Ave, Pilot	921

2010 Records found: 99

Incident	1012019539ME	12/31/10 13:37	Theft from Motor Vehicle - Woolery, Collette	4949 Lamar, Pilot	921
Incident	1012016186ME	12/26/10 12:30	Theft from Motor Vehicle - Cook, Usa	4949 Lamar, Pilot	921
Arrest (no report)	1012010389ME	12/16/10 08:45	Taken Into Custody: Hill, Lakeysa (FB, 02/26/79)	4949 Lamar, Pilot Truck Stop	921
Incident	1012010155ME	12/16/10 02:49	MVT/Tractor Truck - Delaney, Dexter	4949 Lamar, Pilot Gas Station	922
Memo	1012008697ME	12/14/10 12:31	General Assignment Bureau - Griffin, Anthony	4949 Lamar, Pilot Truck Stop	921
Incident	1012007633ME	12/13/10 07:41	MVT/Tractor Truck - Taylor, Daron	4949 Lamar, Pilot Truck Stop	921
Incident	1012003430ME	12/06/10 18:36	Theft from Motor Vehicle - Huicochea, Trinidad	4949 Lamar, Pilot gas station	922
Incident	1012003247ME	12/06/10 13:20	Theft from Motor Vehicle - Castaneda, Javier	4949 Lamar, The Pilot Truck	921
Incident	1011010870ME	11/22/10 08:37	Theft from Motor Vehicle - Hunter, Donald	4949 Lamar, Pilot station	921
Memo	1011010839ME	11/22/10 04:39	General Assignment Bureau - Fortner, Henry	4949 Lamar Ave, Pilot truck stop	921
Incident	1011010692ME	11/21/10 20:20	Theft from Motor Vehicle - Spangler, Krystal	4949 Lamar	921
Memo	1011009922ME	11/20/10 06:09	General Assignment Bureau - Santos, Martin	4949 Lamar, Pilot gas station	921
Incident	1011009931ME	11/20/10 05:26	Vandalism/Misdemeanor - Celadon Truck Line	4949 Lamar, Pilot Gas Station	921
Incident	1011009919ME	11/20/10 05:24	Vandalism/Misdemeanor - Riggs, Albert	4949 Lamar, Pilot gas station	921
Incident	1011009206ME	11/18/10 18:25	Other Theft/Non-Specific - Jesse, Behrends	4949 Lamar, Pilot	921
Memo	1011005981ME	11/12/10 08:49	General Assignment Bureau - Bilek, Stanislaw	4949 Lamar, Pilot station	921
Memo	1011005406ME	11/11/10 09:39	Auto Theft Bureau - Penske logistic	4949 Lamar, Pilot station	921
Incident	1011002454ME	11/05/10 14:56	Theft from Motor Vehicle - Nguyen, Andre	4949 Lamar, Pilot	921
Incident	1010016177ME	10/31/10 12:14	Vandalism/Misdemeanor - Riverside transport	4949 Lamar, Pilot station	921
Incident	1010015737ME	10/30/10 12:52	Theft from Motor Vehicle - Chanin, Hannah	4949 Lamar Ave, Pilot Truck	921
Arrest (no report)	1010013530ME	10/26/10 13:00	Taken Into Custody: coleman, arthur (MB, 06/14/48)	4949 Lamar, Pilot truck stop	921
Incident	1010007457ME	10/15/10 12:56	Credit Card/ATM Fraud - Wilburn, Leroy	4949 Lamar, Pilot	921
Incident	1010006959ME	10/14/10 13:16	Theft from Motor Vehicle - Raab, Jerry	4949 Lamar Ave, Pilot Truck Stop	921
Memo (cont. #1)	1010002327ME	10/05/10 17:13	General Assignment Bureau - David, Earl	4949 Lamar, Pilot	921
Memo	1010002327ME	10/05/10 16:40	General Assignment Bureau - David, Earl	4949 Lamar, Pilot	921
Incident	1009015419ME	09/28/10 12:59	Robbery/Individual - Rodriguez, Gilbert	4949 Lamar, Pilot Truck Stop	921
Memo	1009012637ME	09/23/10 14:52	General Assignment Bureau - Moore, Shane	4949 Lamar, Pilot Truck Stop	921
Incident	1009012314ME	09/23/10 02:25	Theft from Motor Vehicle - McGaha, Tauna	4949 Lamar Ave, Pilot Truck Stop	921
Incident	1009012230ME	09/22/10 20:52	Prostitution - State of Tennessee	4949 Lamar, Pilot	921
			Taken Into Custody: Phillips, Patricia (FB, 01/15/78)		
Memo	1009009895ME	09/18/10 18:27	Economic Crimes Bureau - Allison, James	4949 Lamar, Pilot	922
Incident	1009008621ME	09/16/10 15:16	Theft from Motor Vehicle - Eaton, Theresa	4949 Lamar, Pilot	921
Incident	1009003493ME	09/07/10 13:26	Theft from Motor Vehicle - Bui, My	4949 Lamar, Pilot	921
Incident	1009002776ME	09/06/10 00:32	Shoplifting/Misdemeanor - Pilot Truck stop	4949 Lamar Ave, Pilot Truck stop	921
Incident	1009002034ME	09/04/10 13:42	Theft from Motor Vehicle - Wooten, Linda	4949 Lamar Ave, Pilot Truck Stop	921
Incident	1008014158ME	08/25/10 20:12	Theft from Motor Vehicle - Dills, Eddie	4949 Lamar, Pilot Truck Stop	921
Incident	1008010901ME	08/20/10 10:02	Theft from Motor Vehicle - Stoutsenberger, Lee	4949 Lamar Ave, The Pilot truck stop	921
Incident	1008008250ME	08/15/10 14:53	Theft from Motor Vehicle - Dixon, Rose	4949 Lamar Ave	922
Memo	1008000903ME	08/02/10 19:10	General Assignment Bureau - Ortiz, Patrick	4949 Lamar, Pilot	922
Memo	1007009884ME	07/19/10 08:50	General Assignment Bureau - U.s express	4949 Lamar, Pilot's station	921
Incident	1006015559ME	06/27/10 10:37	Robbery/Individual - Burton, Steven	4949 Lamar, Pilot station	921
Incident	1006011843ME	06/21/10 08:45	Theft from Motor Vehicle - Alexander, Paul	4949 Lamar, Pilot Store/Truck stop	921
Arrest (no report)	1006011630ME	06/20/10 18:24	Taken Into Custody: Hackworth, Willie (MB, 01/02/66)	4949 Lamar	922
Incident	1006010968ME	06/19/10 13:45	Vandalism/Misdemeanor - tumble weed farm	4949 Lamar, BP Gas Station	921
Incident	1006007015ME	06/12/10 19:11	Theft from Motor Vehicle - C r england	4949 Lamar, Pilot truck stop	921
Incident	1006004473ME	06/08/10 15:27	Robbery/Individual - Shalda, Robert	4949 Lamar, Pilote	922
Incident (cont. #1)	1006004360ME	06/08/10 14:08	Counterfeiting/Forgery - Mark, Anthony	4949 Lamar Ave, Pilot Truck Stop	921
Incident	1006004360ME	06/08/10 12:12	Counterfeiting/Forgery - Mark, Anthony	4949 Lamar Ave, Pilot Truck Stop	921
Memo	1006003923ME	06/07/10 18:01	General Assignment Bureau - Edens, Clarke	4949 Lamar, Pilot truck stop	921
Incident	1006000221ME	06/01/10 13:47	Theft from Semi-trailer - Pueschel, John	4949 Lamar, Pilot stations	921
Arrest (no report)	1005004900ME	05/09/10 19:56	Taken Into Custody: Jenkins, Curtis (MB, 10/01/69)	4949 Lamar, Pilot Travel Center	922
Arrest (no report)	1004012026ME	04/22/10 04:26	Taken Into Custody: Cook, Jessica (FW, 08/29/86)	4949 Lamar, Pilot Truck Stop	921
Arrest (no report)	1004012027ME	04/22/10 04:14	On-View Arrest: Arnold, Timothy (MW, 05/13/74)	4949 Lamar, Pilot Gas Station	922
Arrest (no report)	1003016672ME	03/31/10 12:00	Taken Into Custody: Coleman, Arthur (MB, 06/14/48)	4949 Lamar, Pilot	922
Incident	1003008391ME	03/16/10 11:28	MVT/Tractor Truck - Balfour, Marvin	4949 Lamar, Pilot	922
Incident	1002011501ME	02/25/10 04:34	Simple Assault - Holcomb, Terry	4949 Lamar, Pilot Gas	922
Memo	1002007308ME	02/16/10 17:09	General Assignment Bureau - Williams, Kevin	4949 Lamar Ave	922
Incident	1001011830ME	01/25/10 18:23	Other Theft/Non-Specific - Hoagland, Charles	4949 Lamar, Pilot	921
Incident	1001004684ME	01/11/10 16:24	Theft from Motor Vehicle - Saher, Charles	4949 Lamar, Pilot	922
Incident	1001001741ME	01/05/10 08:11	Theft from Semi-trailer - Trans Carrier	4949 Lamar, Pilot	921



Memphis and Shelby County

Office of Planning and Development

CITY HALL, 125 N. MAIN STREET, SUITE 468; MEMPHIS, TN 38103-2084

MEMORANDUM

Date: June 4, 2012

To: Members, Memphis City Council and Board of County Commissioners

From: Josh Whitehead, Planning Director

RE: ZTA 12-001

On June 5, ZTA 12-001 will be presented to the Memphis City Council on first reading. On June 20, 2012, the same joint ordinance will be presented to the Land Use Committee of the Shelby County Board of Commissioners for first reading. ZTA 12-001 is a zoning text amendment to the Unified Development Code (the "UDC"). When the UDC was originally approved by the Memphis City Council and Shelby County Board of Commissioners in August 2010, both bodies requested that I return in one year to present to them amendments based on my office's administration of the Code during its first year of effectiveness.

You will find three documents following this memorandum (identified by tabs with the corresponding letters below):

- A. A staff report that was presented to the Memphis and Shelby County Land Use Control Board that explains each amendment proposed to the UDC. A blog has been created that contains the complete UDC with all amendments in yellow highlights:
<http://www.shelbycountyttn.gov/Blog.aspx?IID=12>
- B. A companion ordinance to this ZTA that will address other sections of the Memphis Code of Ordinances. Most of these items are simply housekeeping, with the exception being the amendments dealing with the insertion of breweries being allowed to serve alcohol on-site. This is based on a recent state law passed by the Tennessee General Assembly. This companion ordinance will be presented to the Memphis Alcohol Commission on May 2 for their recommendation.
- C. The proposed fee schedule resolution for the Office of Planning and Development ("OPD"). The fees that OPD charges have not been raised since 1999, and there has been a 30% increase in the consumer price index since that time. This fee schedule resolution is especially needed since OPD heavily relies on fees rather than subsidization by the taxpayer. In fact, OPD and its sister agency, the Office of Construction Code Enforcement, receives more than 60% of its funding through fees. This fee schedule was recommended for approval by the Land Use Control Board on April 12, 2012, and by the Board of Adjustment on April 25, 2012.

I would like to take this opportunity to let you know that there is some degree of opposition to this zoning text amendment. Please allow me this opportunity to respond to some of the points made by Smart City Memphis on their blog (www.smartcitymemphis.com).

1. Public notice requirements are being “loosened.”

See Section 9.3.2. The 2012 amendments actually strengthen, rather than “loosen” the public notification requirements. In fact, since the Land Use Control Board (“LUCB”) has approved the UDC on April 12, 2012, additional language is being proposed for the section of the Code regarding the neighborhood notification requirements (new language since LUCB approval is in **bold, underline**; deletions are in ~~strikethrough~~):

9.3.2 Neighborhood Notification and Meeting

- A. At least ten days, but not more than 120 days, prior to a hearing before the Land Use Control Board or governing bodies, the applicant shall provide an opportunity to meet with representatives from neighborhoods adjacent to the development site which the hearing involves:
1. Zoning changes not in compliance with any plans to be considered (see Chapter 1.9);
 2. Special use permit and major modification to a special use permit; ~~and~~
 3. Planned development outline plan or major modification to a planned development outline plan; and
 4. Subdivisions containing at least **ten** ~~fifty~~ lots.
- B. Where applicable, the applicant shall contact the following to determine the need and method for discussing the proposed project: 1) the officers of any neighborhood or business associations registered with the City of Memphis Office of Community Affairs whose boundaries include properties within 1,500 feet of the subject property; 2) all current residents of single-family **and two-family** dwellings within the notification area; 3) all property owners within the notification area, if different from the current residents, to determine the need and method for discussing the proposed project; **and 4) the rental or management offices of all multi-family dwellings within the notification area with a request that said rental or management office post the notice in a conspicuous location within a common area(s), including, but not limited to: entry doors, hallways, mailbox areas and laundry rooms.** The neighborhood notification requirements shall be the same as the mailed public notice requirements in 9.3.4A. The notification shall also include the public hearing date of when the application will be heard by the Land Use Control Board or governing bodies. Documentation of the neighborhood notification shall be provided to the Office of Planning and Development and shall consist of a copy of the letter mailed to all parties, the address labels to whom letters were mailed and a map of the notice area. Neighborhood meetings are the sole responsibility of the applicant. If a neighborhood meeting is held, documentation of its proceedings shall also be provided to the Office of Planning and Development. The applicant may request neighborhood organizations' contact information, if available, from the Office of Planning and Development.
- C. The purpose of the neighborhood notification and meeting is to inform the neighborhood of the nature of the proposed land use and development features and solicit comments.

- D. ~~The posted notice requirements of Sub-Section 9.3.4C shall not apply to hearings described in Sub-Section 9.3.2A above.~~

In addition, Section 9.3.4 is being amended to require owners that abut a minor subdivision to receive notice of the meeting in which the subdivision will be discussed. Currently, no notification is required.

2. The “weakening” of overlay districts.

The overlays were originally intended to be “placeholders” until the UDC was adopted. The three overlay districts – Medical, University and Midtown – each contain not only their own unique metrics, but also their own procedures. Planned developments are not permitted in the Medical District, so the Board of Adjustment is the only venue in which relief from the Code may be sought. On the other hand, the Land Use Control Board considers all variances to the Midtown District regulations. It was mainly due to these procedural differences that I originally proposed to make the overlay districts more uniform in nature. ***However, this proposal faced strong opposition from the groups that helped craft the overlay districts, so we are now proposing to make no changes to the overlay districts.***

3. The “weakening” of planned developments.

Again, my original proposal would have made some changes to the planned development (PDs) requirements, especially regarding the removal of any expiration date on PDs and new language regarding concept plans to accompany PDs. ***After these proposals received strong opposition, I removed them from the proposed set of UDC amendments.*** I do not believe any of the other amendments we are proposing to the PD section of the Code (Chapter 9.6) significantly change the PD process. They are housekeeping in nature and simply codify the current policies and procedures regarding PDs.

4. The loss of the opportunity to de-politicize the land use process.

Under state law, there are certain land use decisions; such as rezonings, planned developments and street closures; that require City Council and/or County Board of Commissioners action. However, a new process is being proposed with the UDC amendments that are presented: the conditional use permit (“CUP”). A CUP will function similarly as the special use permit (“SUP”), but be reviewed by the Memphis and Shelby County Board of Adjustment. This will not only “de-politicize” requests for CUPs, but it also greatly shortens the length of time an applicant must wait to get a CUP approved or rejected. While an SUP takes 4-6 months to be heard by the City Council between application deadline and final determination, a CUP will take only one month. Please be advised that the only available CUP, as presented in the UDC amendments, will deal specifically with group instruction at the home, such as swimming lessons. However, at some point in the future, the UDC could be amended so more items that are currently classified as SUPs could be reclassified as CUPs, which would de-politicize the land use process for those items.

Our original set of amendments contained an additional mechanism that attempted to not only “de-politicize” the land use process, but streamline it in a way that would forgo time-consuming formal hearings for certain provisions. This was the reclassification of certain variances (which must be processed through the Board of Adjustment) and special exceptions (which must be processed through the Land Use Control Board with

appeals to the City Council and/or Board of County Commissioners) as administrative deviations, which may be approved by the Planning Director. However, during my sessions throughout February, March and April with the opposition, they expressed concern that too much power was being bestowed to the Planning Director and the planning staff at OPD. So, I removed these administrative deviations. It appears there are two separate groups of opposition with differing view on this point: one that is more concerned about the lack of public input that accompanies administrative deviations and the other that is more concerned about the politicization that may accompany public hearings. I am amenable to either return to the language allowing these items to be classified as administrative deviations or leave the amendments as-is, which arguably could politicize these items.

5. The source of each amendment (public planner, elected official or developer).

I authored each and every amendment proposed to the UDC, based on my role as Planning Director of the City of Memphis and unincorporated Shelby County and my staff's and my personal administration, implementation and interpretation of the Code during its first year. While there are a handful of text amendments that are the result of direct requests by elected officials (the creation of a new use for gas stations that cater to trucks, the requirement that schools must obtain a special use permit prior to expanding into residential areas, the strengthening of the language surrounding neighborhood notification, etc.), these are few in number as compared to the amendments generated by me.

I was hired as Assistant City Attorney assigned to OPD in February 2010 primarily to assist in the co-authoring of the final draft of the UDC and usher it through the LUCB, City Council and Board of County Commissioners. My previous work in Germantown was primarily focused on the crafting of a similar overhaul of its zoning code. My main, if not only, competency, in the law is of land use law, both statutory and case law. ***It is through this legal lens that I assisted in the original writing of certain UDC provisions, as well as its administration over the past year and-a-half and, most importantly, the crafting of each of the proposed amendments.***

6. Input from the authors of the UDC.

The authors of the UDC were not consulted for this series of amendments. While the original UDC is an excellent document from which to work from, it was not tailor made for Memphis and Shelby County. Some of the UDC provisions look good in principle, such as the requirement that all lots in the CMU-3 district, the highest commercial district under the UDC, be at least 50 feet in width. Another example is that the maximum ground floor area of retail buildings in the lowest commercial district, CMU-1, be 15,000 square feet. This would prevent "big box" stores within close proximity to neighborhoods. The problem with this approach, quite frankly, is that it has created thousands upon thousands of nonconforming uses and structures, which makes redevelopment and reinvestment almost impossible. In addition, these amendments have been done completely in house for two reasons: both budgetary and due to the fact that the planners who are most knowledgeable about zoning in Memphis and Shelby County – those that work in the Land Use Controls Section of OPD – should be the ones best suited to recommend its regulations.

7. Slow down the approval process.

This zoning text amendment was first shared with members of the Land Use Control Board, the Memphis City Council and the Shelby County Board of Commissioners on January 14, 2012. I set up a blog for this zoning text amendment and attached to that blog the entire ordinance, as well as the staff report explaining all of the amendments. Both the *Commercial Appeal* and the *Memphis Business Journal* ran stories on the blog with links to the blog. This item was then heard by the Land Use Control Board on February 9, 2012. During that meeting, a member who identified herself as opposed to the amendments requested more time so she, and other concerned citizens, could review the amendments. I then began meeting with these citizens. One of their primary concerns was the language affecting the overlay districts. I agreed to leave the overlay districts out of this amendment process (see Item 2 above), provided they agreed to begin to look at ways to make the regulations and processes of the overlay districts more uniform. This zoning text amendment was not presented to the March 8, 2012, Land Use Control Board meeting to allow me another month to work with the opposition to develop compromise language on an additional series of contended items. On April 2, 2012, I again met with the opposition and felt that most of their items were addressed. They did not indicate that they would request another delay during that meeting. However, at the April 12, 2012, Land Use Control Board meeting, three members of the opposition requested that the Land Use Control Board delay the item further. I objected and the Land Use Control Board unanimously approved the UDC amendments, on the condition that I continue my dialogue with the opposition.

The timing of the UDC is now as follows:

City Council: First Reading: June 5
City Council: Second Reading: June 19
County Commission Land Use Committee: First Reading: June 20
County Commission: First Reading: June 25
City Council: Planning and Zoning Committee: July 3
City Council: Third Reading/PUBLIC HEARING: July 3
County Commission Land Use Committee: Second Reading: July 11
County Commission: Second Reading/PUBLIC HEARING: July 16
County Commission: Land Use Committee: Third Reading: July 25
County Commission: Third Reading: July 20
City Council: Approval of Minutes of their Third Reading: August 7

With public hearings set for early- and mid-July (see highlighted dates), this will have provided the public six months to review the proposed amendments. I believe this is more than adequate time for public review and comment.

Finally, I would like to point out that the amendments presented in the ZTA partly reflect the comments made during numerous community meetings that I have attended over the course of the past two years. These include concerns ranging from a work release center in Raleigh to a truck stop in Whitehaven. These items are very time-sensitive, as are the many nonconformities inadvertently created by the UDC that are now in a state of legal limbo in Judge Potter's court, including tattoo parlors and homes that offer swimming lessons. There are many other nonconformities; such as beauty parlors, funeral establishments and even office buildings; that require the UDC to be amended before they may expand. In addition, there are a few individuals wishing to pursue uses that are not addressed by the current UDC, such as microbreweries, who are patiently waiting for the Code to be amended.

8. Remove County government from land use process.

The City Council has extraterritorial land use jurisdiction for an area five miles outside of the city limits and outside of any other municipality. This is due to a private act passed by the Tennessee General Assembly in 1931. The County Board of Commissioners has jurisdiction in all parts of unincorporated Shelby County due to a private act passed by the General Assembly in 1935. To remove Shelby County government from the land use process, amendments to one – or both – of these private acts would be required of the General Assembly.

9. Look at the planned development process around the nation.

Again, no significant amendments to the planned development process are being proposed at this time. But, most jurisdictions, both around the nation and across the state, do not permit planned developments to grant relief to the permitted uses of the underlying zoning. This one issue places the planned development in Memphis and Shelby County in a category unto itself. However, planned developments may be conditioned whereas re-zoning requests cannot. This allows additional conditions to be placed on a piece of property, such as additional setbacks or extra landscaping, that would not ordinarily be achieved through a re-zoning. It is my belief that the UDC amendments (as compared to the old zoning code) diminishes, but does not completely eliminate, the need for some property owners to request planned developments in their requests for zoning entitlements.

Over the past year, there had been a spate of PDs due to the current language of Chapter 2.5 of the UDC. Chapter 2.5 is the use chart, which sets out which use is permitted in which zoning district. Because so many uses that were once permitted in zoning districts were inadvertently deleted from the use chart, many property owners have been forced to file for PDs to continue or expand their operations. PDs were the recommended alternative to re-zoning requests since the latter could open up the property to additional, and sometimes unwanted, uses. It was communicated to the Memphis City Council and the Shelby County Board of Commissioners that no nonconformities would be created through the new use chart of the UDC, which has appeared to have been an overstatement. One of the most important amendments proposed to the UDC will be the return of many uses that were once permitted in each respective zoning district. This should lessen the dependence on PDs.

In addition to these nine items, the following issues were raised by Ms. Louise Mercuro in a letter posted on <http://leftwingcracker.blogspot.com/> (only those items that weren't raised above are covered):

10. Notice for new PDs and SUPs and amendments to existing PDs and SUPs.

The table in Sub-Section 9.3.4A of the UDC contains when notice is required for Planned Developments. The issue regarding notice is a matter of interpretation. I have proposed changing requiring mailed notice for the legislative bodies only if there is an appeal to them. In other words, notice is automatically mailed to the 500-foot property owners, the neighborhood associations, etc for the Land Use Control Board meeting, and if there is no appeal to City Council, notice would not be mailed again. That is how we have handled Planned Developments and Special Use Permits since the UDC was adopted.

My change in this table from an "M" (where public notice is mailed) to an "M-AO" (where public notice is mailed only if there's an appeal) for the four following items: 1) new

Planned Developments, 2) major modifications to Planned Developments, 3) new Special Use Permits and 4) major modifications to Special Use Permits was to reflect this current practice, not to remove mailed notice. Notice would still be mailed to the neighbors for the Land Use Control Board meeting, but I can see how someone could interpret it the way she has. ***To remove this confusion, I will propose keeping the "M" under these four items.*** This will be included in a memo I will prepare for the City Council and the Board of County Commissioners that will contain all post-Land Use Control Board suggested amendments.

11. Allowing the Board of Adjustment to re-issue use variances.

Pursuant to state law, the Board of Adjustment has authority to grant use variances. This authority may only be changed through state law. However, we have developed language that guides the Board's authority on the issuance of use variances that were not part of the earlier zoning code, including a prohibition of granting any use variance for off-premise advertising (billboards) and any use that would require a Special Use Permit from the City Council (day cares and cell towers). See Sub-Section 9.22.6B. In addition, I have essentially copied verbatim the very restrictive language from the state enabling act that, I believe, greatly limit the application of the use variance.

12. The amendments will promote sprawl.

I believe the UDC, and zoning in general, is only one tool in curbing sprawl and promoting inner-city redevelopment. Other factors, such as sewer service and access to roads, play a major role in creating sprawl. ***My fear, and my experience over the past year and a half administering the UDC, is that it is making inner-city redevelopment so difficult that it is in fact unintentionally promoting sprawl.***

13. There was no public debate.

The changes we have proposed are based on numerous public hearings, phone calls and emails I have had with the citizens of Memphis and unincorporated Shelby County. My staff and I developed these amendments over the course of nearly two years and sought public input throughout the process. I posted all amendments in January, which was advertised by articles in the *Memphis Business Journal* and the *Commercial Appeal* at the time. We then heard this matter twice at the Land Use Control Board during public hearings (February and April). During this entire process, I have met with and spoke with anyone who has concerns. Louise Mercuro has never contacted me about the UDC.

With many major projects "waiting in the wings," I fear an indefinite hold could have severe negative impacts on the local economy, as we leave unresolved so many issues that need to be addressed as soon as possible, such as diesel fueling stations, conducting pool operations from the home, permitting the redevelopment of narrow lots in the commercial zoning districts, etc.

14. Concessions made are not reflected in the final copy of the UDC.

All concessions that I made with the UDC stakeholders are posted on the blog for this zoning text amendment. Only those items in green were agreed to during these meetings and they are all reflected in the version of the UDC that is being presented to the City Council and Board of County Commissioners. ***None of the members of the***

UDC stakeholder groups expressed concern with me that the compromises we reached were omitted from the final version of the UDC.

On a final note, please be advised that I am continuing to meet with those who are opposed to the proposed amendments. I am confident that compromise can be reached on most of their points of contention between now and the Council's final reading of this ZTA. I will present to the City Council a memorandum that details each of these compromises prior to Third and Final Reading on July 3, 2012 and to the Board of County Commissioners after that date if approved by Council.